

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant/Owner: Mihn Ly & Kathy Foley

Date application filed with the Town Clerk: October 19, 2013

Nature of request: For a Special Permit to erect a fence taller than six feet within a side yard setback, under Section 6.29 of the Zoning Bylaw

Address: 93 Cherry Lane (Map 8B, Parcel 73, R-N Zoning District)

Legal notice: Published on October 23, 2013 and October 30, 2013 in the Daily Hampshire Gazette and sent to abutters on October 22, 2013

Board members: Tom Ehrgood, Keith Langsdale, Pari Riahi

Staff members: Jeff Bagg, Senior Planner, Building Commissioner, Rob Morra

Submissions:

- Project Application Report, dated December 6, 2013
- Email from applicant, dated October 31, 2013, requesting continuation
- Application form and project narrative, filed with Town Clerk on October 10, 2013
- Image 1, example of remaining retaining wall
- Image 2 & 3 of fence before
- Attachment A, landscape contract, dated May 15, 2013
- Image 4, 5, 6 of fence and lawn
- Attachment B, Notice of Violation, from Code Enforcement Officer, dated August 20, 2013
- Attachment C, email correspondences with Code Enforcement Officer
- Attachment D, existing conditions survey, prepared by Holmberg & Howe, Inc, dated September 5, 2013
- Attachment E, correspondences between applicant and abutter (x2)
- Attachment F, cease and desist letter from abutter
- Attachment G, letter from Code Enforcement Officer, dated September 23, 2013
- Attachment H, certified letter to abutter
- Attachment I, Building Code 421.10
- Attachment J, Site Plan (proposed) survey, dated October 2, 2013
- Attachment K, letter from Northeast Landscape
- Email from applicant, dated December 11, 2013, requesting withdrawal of the application

Public Hearing: November 7, 2013

The applicant, Mihn Ly, referred to his October 31, 2013 email which requests a continuation of the public hearing to allow them to explore options for the fence that do not require a Special Permit.

Mr. Langsdale MOVED to continue the public hearing to December 12, 2013. Ms. Riahi seconded the motion and the Board VOTED unanimously to continue the public hearing.

Public Hearing: December 12, 2013

The applicant was not present. The Board members acknowledged the applicant's email request to withdraw the application without prejudice, noting that they have found an alternative fence design which does not require a Special Permit.

Zoning Board Decision

Ms. Riahi MOVED to accept the request to WITHDRAW the application without prejudice. Mr. Langsdale seconded the motion and the Board VOTED unanimously to accept the withdrawal of the application.

Tom Ehrgood
TOM EHRCOOD (JB)

Keith Langsdale
KEITH LANGSDALE (JB)

Pari Riahi
PARI RIAHI

FILED THIS 7th day of March, 2014 at 2:40 PM,
in the office of the Amherst Town Clerk Sandra J. Burger
TWENTY-DAY APPEAL period expires, MARCH 27, 2014.
NOTICE OF DECISION mailed this 10th day of MARCH, 2014
to the attached list of addresses by Jeffrey R. B. B., for the Board.
COPY OF NO APPEAL issued this _____ day of _____, 2014.
NOTICE OF PERMIT or Variance filed this _____ day of _____, 2014,
in the Hampshire County Registry of Deeds.

**BOARD OF APPEALS
AMHERST, MASSACHUSETTS
RECORD OF APPEALS AND DECISION RENDERED**

Petition of Mihn Ly & Kathy Foley

For A Special Permit to erect a fence taller than six feet within a side yard setback,
under Section 6.29 of the Zoning Bylaw

On the premises of 93 Cherry Lane

At or on Map 8B, Parcel 73, R-N Zoning District

NOTICE of hearing as follows mailed (date) October 22, 2013
to attached list of addresses and published in the Daily Hampshire Gazette
dated October 23, 2013 and October 30, 2013

Hearing date and place November 7, 2013 (Town Hall)

The Amherst Zoning Board
of Appeals will meet on
*Thursday, November 7,
2013*, at 6:30 P.M. in the
TOWN ROOM, Town Hall,
to conduct the following
business:
PUBLIC HEARING:
ZBA FY2014-00007 - Minh
Ly and Kathy Foley - For
a Special Permit to erect
a fence taller than six feet
within a side yard setback,
under Section 6.29 of the
Zoning Bylaw, at 93 Cherry
Lane (Map 8B, Parcel 73, R-
N Zoning District)
ZBA FY2014-00008 -
Christopher Benning and
Lana Fiala - For a Special
Permit to erect a fence taller
than four feet within multiple
front yard setbacks, under
Section 6.29 of the Zoning
Bylaw, at 229 Main Street
(Map 14B, Parcel 31, R-G
Zoning District)
ERIC BEAL, CHAIR
AMHERST ZONING
BOARD OF APPEALS
October 23, 30

3275127

SITTING BOARD and VOTE TAKEN:
To accept the withdrawal of the application.

Tom Ehrgood - Yes Keith Langsdale - Yes Pari Riahi - Yes

DECISION: APPROVED with conditions as stated in permit

Town of Amherst Abutter List

<i>Parcel ID</i>	<i>Parcel Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>City/St/Zip</i>
8B-76	52 CHERRY LN	BABB, LAWRENCE A & NANCY D TRUSTEES		52 CHERRY LN	Amherst, MA 01002
8B-67	55 CHERRY LN	SWIFT, JOANNE TRUSTEE OF REV. TRUST		55 CHERRY LN	AMHERST, MA 01002
8B-75	60 CHERRY LN	CALABRESE, EDWARD J & MARY V		60 CHERRY LN	AMHERST, MA 01002
8B-68	63 CHERRY LN	ZOELLER, ROBERT T		63 CHERRY LN	Amherst, MA 01002
8B-74	68 CHERRY LN	HOWARD, JOHN S & LISA T LIFE ESTATE		68 CHERRY LN	AMHERST, MA 01002
8B-69	71 CHERRY LN	VICKERY, PETER E & MARGARET B		71 CHERRY LN	AMHERST, MA 01002
8B-70	73 CHERRY LN	LEE, MYUNG-RO & MOON-JA CHANG		73 CHERRY LN	AMHERST, MA 01002
8B-71	75 CHERRY LN	LEVINE, EDWARD TRUSTEE OF REVOCABLE TRST		75 CHERRY LN	AMHERST, MA 01002
8B-72	85 CHERRY LN	COTANCHE JR, JAMES G TRUSTEE		85 CHERRY LN	AMHERST, MA 01002
8B-73	93 CHERRY LN	LY, MINH CONG & FOLEY, KATHLEEN M		93 CHERRY LN	Amherst, MA 01002
8B-137	101 CHERRY LN	TREYZ, SHELLEY Y		101 CHERRY LN	AMHERST, MA 01002
8B-138	109 CHERRY LN	GEOFFROY, DAVID J & BARBARA A		109 CHERRY LN	AMHERST, MA 01002
8B-81	12 SHEERMAN LN	PHILLIS, RANDALL W	PHILLIS, DEBRA M	12 SHEERMAN LN	AMHERST, MA 01002
8B-82	20 SHEERMAN LN	COULL, JOHN W & SCHWARTZ, JEAN A		20 SHEERMAN LN	AMHERST, MA 01002

<i>Parcel ID</i>	<i>Parcel Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>City/Zip</i>
8B-96	23 SHEERMAN LN	FORD, DAVID M & KRISTEN L		23 SHEERMAN LN	AMHERST, MA 01002
8B-83	24 SHEERMAN LN	KING, DAVE I & MILAM, JOAN C		24 SHEERMAN LN	AMHERST, MA 01002
8B-95	27 SHEERMAN LN	ANDERSON, NORMA JEAN		27 SHEERMAN LN	AMHERST, MA 01002
8B-84	30 SHEERMAN LN	BAITINGER III, GEORGE F & FECHNER, MARY		30 SHEERMAN LN	AMHERST, MA 01002
8B-94	33 SHEERMAN LN	FIISK, KAREN M & ANDREW C		33 SHEERMAN LN	Amherst, MA 01002
8B-85	36 SHEERMAN LN	CHANG, TSE SHENG ELIZABETH		36 SHEERMAN LN	AMHERST, MA 01002
8B-93	39 SHEERMAN LN	FARBER, BARRY L	VOGEL, LAURA B	39 SHEERMAN LN	AMHERST, MA 01002
8B-86	40 SHEERMAN LN	TAYLOR, PATRICK V	GILBERT, THALIA	40 SHEERMAN LN	AMHERST, MA 01002
8B-87	46 SHEERMAN LN	SIMMONS, WILLIAM R	EIGNER, IRENE P	46 SHEERMAN LN	AMHERST, MA 01002
8B-128	7 WEAVER CIR	WURGAF, NINA & MOSHE		7 WEAVER CIR	AMHERST, MA 01002
8B-136	8 WEAVER CIR	PARKER, JENNIFER L	SCHLOEMANN, SONIA G	8 WEAVER CIR	AMHERST, MA 01002
8B-135	12 WEAVER CIR	BROWNE, BRUCE H	MACGREGOR, KATHRYN M	12 WEAVER CIR	AMHERST, MA 01002